

STATE OF INDIANA)
) SS:
COUNTY OF MADISON)

IN THE MADISON CIRCUIT COURT
CAUSE NO. 48C01-0808-PL-00803

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
PAYTON WELLS,)
individually and doing business as Anderson)
Ford Lincoln Mercury, Inc. and Anderson Chrysler)
Plymouth Dodge, Inc., KEVIN KIMBROUGH,)
individually and doing business as Anderson)
Ford Lincoln Mercury, Inc. and Anderson)
Chrysler Plymouth Dodge, Inc., ANDERSON)
FORD LINCOLN MERCURY, INC., and)
ANDERSON CHRYSLER PLYMOUTH)
DODGE, INC.,)
Defendants.)

DEFAULT JUDGMENT AGAINST KEVIN KIMBROUGH, ONLY

The Plaintiff, State of Indiana, having filed its Motion for Default Judgment against Defendant Kevin Kimbrough only, and the Court having read the same and being duly advised in the premises, now finds:

1. The Court has subject matter jurisdiction and personal jurisdiction over the Defendant, Kevin Kimbrough ("Kimbrough").
2. Kimbrough was served with notice of these proceedings and a copy of the Plaintiff's Complaint for Injunction, Restitution, Costs, and Civil Penalties.
3. More than twenty (20) days have passed since Kimbrough was served.
4. Kimbrough has failed to plead or otherwise respond to the Complaint.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED the Motion for Default Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendant, Kevin Kimbrough, only.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to Ind. Code § 24-5-0.5-4(c)(1), Defendant Kevin Kimbrough, his agents, representatives, employees, successors, and assigns are permanently enjoined from engaging in the following:

- c) Misrepresenting the terms and conditions of pay-off agreements in violation of Ind. Code § 24-5-0.5-3(a)(1); and
- d) Misrepresenting his ability to complete the subject of a consumer transaction within a stated or reasonable period of time in violation of Ind. Code § 24-5-0.5-3(a)(10).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered for the Plaintiff, State of Indiana, and against Defendant Kimbrough, as follows:

- g) Consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), in the form of a Court Order directing the Indiana Bureau of Motor Vehicles to issue Richard T. Merriman a title for the 2005 Ford Taurus, VIN 1FAFP53UX5A264058, he purchased from Kimbrough, by or through one or more of the above named Defendants;
- h) Consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2) for the benefit of the following consumers in the following sums:
 - 1. Tony N. Moody (\$8,000.00)
 - 2. James Wright (\$9,695.58)
 - 3. Elissa and Robert Burton (\$24,000.00)

4. Terri Lynn Harting (\$15,300.00)
 5. Daniel Dean Livesay (\$16,958.25)
 6. Timothy C. Livesay (\$17,330.00)
 7. Darcie L. McCorkle (\$7,900.00)
 8. Clyde and Dennis Millsaps (\$10,517.00)
 9. Todd A. Stroup (\$4,200.00);
- i) Costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General Two Hundred Dollars (\$300.00);
- j) Civil Penalties pursuant to Ind. Code § 24-5-0.5-8 on Count II of the Plaintiff's complaint, for Kimbrough's intentional violations of Ind. Code § 24-5-0.5-3(a)(1) and (10), in the total amount of Five Thousand Dollars (\$5,000.00) payable to the Office of the Indiana Attorney General; and
- k) Civil Penalties pursuant to Ind. Code § 24-5-0.5-4(g) on Count II of the Plaintiff's complaint, for Kimbrough's knowing violations of Ind. Code § 24-5-0.5-3(a)(1) and (10), in the total amount of Fifty Thousand Dollars (\$50,000.00) payable to the Office of the Indiana Attorney General.

A total monetary judgment in the amount of One Hundred Sixty-Nine Thousand Two Hundred Dollars and Eighty-Three Cents (\$169,200.83) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendant, Kevin Kimbrough.

ALL ORDERED, ADJUDGED AND DECREED on this 22 day of

Jam, 2009.

Fredrick R. Green

Judge, Madison Circuit Court

Distribution:

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